

Panaji, 9th October, 1980 (Asvina 17, 1902)

SERIES I No. 28

# OFFICIAL GAZETTE

## GOVERNMENT OF GOA, DAMAN AND DIU

### GOVERNMENT OF GOA, DAMAN AND DIU

Department of Personnel and Administrative Reforms

#### Notification

1/13/76-PER (VOL. II)

In exercise of the powers conferred by the proviso to article 309 of the Constitution, read with the Government of India, Ministry of External Affairs Notification No. F.7(11)/62-Goa dated 25th July, 1963, the Lt. Governor of Goa, Daman and Diu is pleased to make the following rules relating to recruitment to Group 'D' Non-ministerial, non-gazetted post of Field Worker in the Public Works Department, under the Government of Goa, Daman and Diu.

1. **Short title.**— These rules may be called Government of Goa, Daman and Diu, Public Works Department, Group 'D' non-ministerial, non-gazetted post of Field Worker Recruitment Rules 1980.

2. **Application.**— These rules shall apply to the posts specified in column 1 of the Schedule to these rules.

3. **Number, classification and scale of pay.**— The number of posts, classification of the said posts and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the said Schedule.

4. **Method of recruitment, age limit and other qualifications.**— The method of recruitment to the said posts, age limit, qualifications and other matters connected therewith shall be as specified in columns 5 to 13 of the aforesaid Schedule.

Provided that,

- (a) the maximum age limit specified in the Schedule in respect of direct recruitment may be relaxed in the case of candidates belonging to the Scheduled Castes and Scheduled Tribes and other special categories in accordance with the orders issued by the Government from time to time;
- (b) no male candidate, who has more than one wife living and no female candidate, who has married a person having already a wife living, shall be eligible for appointment, unless the Government, after having been satisfied that there are special grounds for doing so, exempts any such candidate from the operation of this rule;
- (c) *Saving:* Nothing in these rules shall affect reservations, relaxation of age-limit and other concessions required to be provided for Scheduled Castes and Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

5. These rules will come into effect from the date of the Notification and will relate to appointments to the various posts made on or after this date.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

G. H. Mascarenhas, Under Secretary (Personnel).

Panaji, 25th September, 1980.

## SCHEDULE

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## Notification

1/11/78-PER

In exercise of the powers conferred by the proviso to article 309 of the Constitution, read with the Government of India, Ministry of External Affairs Notification No. F.7(11)/62-Goa dated 25-7-1963, the Lt. Governor of Goa, Daman and Diu is pleased to make the following rules relating to recruitment to Group 'C' Non-Ministerial, Non-Gazetted post of Mechanic (Vehicle) Grade I in the Directorate of Animal Husbandry and Veterinary Services under the Government of Goa, Daman and Diu.

1. **Short title.** — These rules may be called Government of Goa, Daman and Diu, Directorate of Animal Husbandry and Veterinary Services Group 'C' Non-Ministerial, Non-Gazetted post of Mechanic (Vehicle) Grade I Recruitment Rules, 1980.

2. **Application.** — These rules shall apply to the posts specified in column 1 of the Schedule to these rules.

3. **Number, classification and scale of pay.** — The number of posts, classification of the said posts and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the said Schedule.

4. **Method of recruitment, age limit and other qualifications.** — The method of recruitment to the said posts, age limit, qualifications and other matters connected therewith shall be as specified in columns 5 to 13 of the aforesaid Schedule.

Provided that,

- the maximum age limit specified in the Schedule in respect of direct recruitment may be relaxed in the case of candidates belonging to the Scheduled Castes and Scheduled Tribes and other special categories in accordance with the orders issued by the Government from time to time;
- no male candidate, who has more than one wife living and no female candidate, who has married a person having already a wife living, shall be eligible for appointment, unless the Government, after having been satisfied that there are special grounds for doing so, exempts any such candidate from the operation of this rule;
- Saving:* Nothing in these rules shall affect reservations, relaxation of age-limit and other concessions required to be provided for Scheduled Castes and Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

5. These rules will come into effect from the date of the Notification and will relate to appointments to the various posts made on or after this date.

6. These rules are issued in supersession of the rules existing for the post.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

G. H. Mascarenhas, Under Secretary (Personnel).

Panaji, 29th September, 1980.

SCHEDULE

1	2	3	4	5	6	7	8	9	10	11	12	13
Name of the post	No. of posts	Classification	Scale of Pay	Whether Selection Post or non-Selection Post	Age limit for direct recruits	Educational and other qualifications required for direct recruits	Whether age and educational qualifications prescribed for the direct recruit will apply in the case of promotees	Period of probation, if any	Method of recruitment whether by direct recruitment or by promotion/transfer, and the percentage of the vacancies to be filled by various methods	In case of promotion/transfer, which grades from which promotion/deputation/transfer is to be made	If a D. P. C. exists, what is its composition	Circumstances in which U. P. S. C. is to be consulted in making recruitment position
Mechanic (Vehicle) Grade I.	One	Group 'C' Non-ministerial Non-Gazetted.	Rs. 380-12-500-EB-15-560.	Selection	30 years and below (relaxable for Govt. servants).	Essential: 1) I.T.I. Certificate in the relevant trade. 2) 5 years experience in the line. OR 1) Diploma in Automobile Engineering from a recognised Institution. 2) 4 years experience in the line. Desirable: Knowledge of Konkani and/or Marathi.	N.A.	Two years	By promotion failing which by i) Fitter ii) Maintenance Supervisor. iii) Senior Mechanic Grade II with 5 years regular service in the respective grades. Transfer on deputation.	Promotion:	Group 'C' D.P.C.	N.A.

Law Department (Legal Advice)

Notification

7-1-80/LGL

The following Ordinance which was recently promulgated by the President of India on 22-9-1980 is hereby republished for general information of the public.

R. V. Durbhatker, Under Secretary (Law).

Panaji, 27th September, 1980.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 22nd September, 1980  
Bhadra 31, 1902 (Saka)

THE NATIONAL SECURITY  
ORDINANCE, 1980

No. 11 of 1980

Promulgated by the President in the Thirty-first Year of the Republic of India.

An Ordinance to provide for preventive detention in certain cases and for matters connected therewith.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title, extent and commencement. — (1) This Ordinance may be called the National Security Ordinance, 1980.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on the 23rd day of September, 1980.

2. Definitions. — In this Ordinance, unless the context otherwise requires, —

(a) "appropriate Government" means, as respects a detention order made by the Central Government or a person detained under such order, the Central Government, and as respects a detention order made by a State Government or by an officer subordinate to a State Government or as respects a person detained under such order, the State Government;

(b) "detention order" means an order made under section 3;

(c) "foreigner" has the same meaning as in the Foreigners Act, 1946; 31 of 1946.

(d) "person" includes a foreigner;

(e) "State Government", in relation to a Union territory, means the administrator thereof.

### 3. Power to make orders detaining certain persons.

— (1) The Central Government or the State Government may, —

(a) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the defence of India, the relations of India with foreign powers, or the security of India, or

(b) if satisfied with respect to any foreigner that with a view to regulating his continued presence in India or with a view to making arrangements for his expulsion from India,

it is necessary so to do, make an order directing that such person be detained.

(2) The Central Government or the State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community it is necessary so to do, make an order directing that such person be detained.

*Explanation.* — For the purposes of this sub-section, “acting in any manner prejudicial to the maintenance of supplies and services essential to the community” does not include “acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community” as defined in the *Explanation* to sub-section (1) of section 3 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980, and accordingly, no order of detention shall be made under this Ordinance on any ground on which an order of detention may be made under this Act.

7 of 1980.

(3) If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the State Government is satisfied that it is necessary so to do, it may, by order in writing, direct, that during such period as may be specified in the order, such District Magistrate or Commissioner of Police may also, if satisfied as provided in sub-section (2), exercise the powers conferred by the said sub-section:

Provided that the period specified in an order made by the State Government under this sub-section shall not, in the first instance, exceed three months, but the State Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time by any period not exceeding three months at any one time.

(4) When any order is made under this section by an officer mentioned in sub-section (3), he shall forthwith report the fact to the State Government to which he is subordinate together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof

unless, in the meantime, it has been approved by the State Government:

Provided that where under section 8 the grounds of detention are communicated by the officer making the order after five days but not later than ten days from the date of detention, this sub-section shall apply subject to the modification that, for the words “twelve days”, the words “fifteen days” shall be substituted.

(5) When any order is made or approved by the State Government under this section, the State Government shall, within seven days, report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as, in the opinion of the State Government, have a bearing on the necessity for the order.

4. *Execution of detention orders.* — A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973.

2 of 1974.

5. *Power to regulate place and conditions of detention.* — Every person in respect of whom a detention order has been made shall be liable —

(a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the appropriate Government may, by general or special order, specify; and

(b) to be removed from one place of detention to another place of detention, whether within the same State or in another State, by order of the appropriate Government:

Provided that no order shall be made by a State Government under clause (b) for the removal of a person from one State to another State except with the consent of the Government of that other State.

6. *Detention orders not to be invalid or inoperative on certain grounds.* — No detention order shall be invalid or inoperative merely by reason —

(a) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the Government or officer making the order, or

(b) that the place of detention of such person is outside the said limits.

7. *Powers in relation to absconding persons.* — (1) If the Central Government or the State Government or an officer mentioned in sub-section (3) of section 3, as the case may be, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, that Government or officer may —

(a) make a report in writing of the fact to a Metropolitan Magistrate or a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides;

(b) by order notified in the Official Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order.

(2) Upon the making of a report against any person under clause (a) of sub-section (1), the provisions of sections 82, 83, 84 and 85 of the Code of Criminal Procedure, 1973, shall apply in respect of such person and his property as if the detention order made against him were a warrant issued by the Magistrate. 2 of 1974.

(3) If any person fails to comply with an order issued under clause (b) of sub-section (1), he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under sub-section (3) shall be cognizable. 2 of 1974.

8. *Grounds of order of detention to be disclosed to persons affected by the order.*—(1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

9. *Constitution of Advisory Boards.*—(1) The Central Government and each State Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Ordinance.

(2) The constitution of every such Board shall be in accordance with the recommendations of the Chief Justice of the appropriate High Court.

(3) Every such Board shall consist of a Chairman and not less than two other members, and the Chairman shall be a serving Judge of the appropriate High Court and the other members shall be serving or retired Judges of any High Court.

*Explanation.*—In this section, “appropriate High Court” means,—

(a) in the case of the detention of a person in pursuance of an order of detention made by the Central Government or the administrator of the Union territory of Delhi or an officer subordinate to such administrator, the High Court for the Union territory of Delhi;

(b) in the case of the detention of a person in pursuance of an order of detention made by any State Government (other than the administrator of the Union territory) or an officer of such State Government, the High Court for that State; and

(c) in the case of the detention of a person in pursuance of an order of detention made by the administrator of a Union territory (other than the Union territory of Delhi) or an officer subordinate to such administrator, such High Court as the Central Government may, by order published in the Official Gazette, specify with respect to such Union territory.

10. *Reference to Advisory Boards.*—Save as otherwise expressly provided in this Ordinance, in every case where a detention order has been made under this Ordinance, the appropriate Government shall, within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it under section 9, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer mentioned in sub-section (3) of section 3, also the report by such officer under sub-section (4) of that section.

11. *Procedure of Advisory Boards.*—(1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the appropriate Government within seven weeks from the date of detention of the person concerned.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board; and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

12. *Action upon the report of the Advisory Board.*—(1) In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit.

(2) In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of a person, the appropriate Government shall revoke the detention order and cause the person concerned to be released forthwith.

13. *Maximum period of detention.*—The maximum period for which any person may be detained in pursuance of any detention order which has been

confirmed under section 12 shall be twelve months from the date of detention:

Provided that nothing contained in this section shall affect the power of the appropriate Government to revoke or modify the detention order at any earlier time.

**14. Revocation of detention orders. —**

(1) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897, a detention order may, at any time, be revoked or modified, —

(a) notwithstanding that the order has been made by an officer mentioned in sub-section (3) of section 3, by the State Government to which that officer is subordinate or by the Central Government;

(b) notwithstanding that the order has been made by a State Government, by the Central Government.

(2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the Central Government or a State Government or an officer mentioned in sub-section (3) of section 3, as the case may be, is satisfied that such an order should be made.

**15. Temporary release of persons detained. —** (1) The appropriate Government may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time, cancel his release.

(2) In directing the release of any person under sub-section (1), the appropriate Government may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

**16. Protection of action taken in good faith. —** No suit or other legal proceeding shall lie against the Central Government or a State Government, and no suit, prosecution or other legal proceeding shall lie against any person, for anything in good faith done or intended to be done in pursuance of this Ordinance.

**17. Ordinance not to have effect with respect to detentions under State laws. —** (1) Nothing in this

Ordinance shall apply or have any effect with respect to orders of detention, made under any State law, which are in force immediately before the commencement of this Ordinance, and accordingly every person in respect of whom an order of detention made under any State law is in force immediately before such commencement, shall be governed with respect to such detention by the provisions of such State law or where the State law under which such order of detention is made is an Ordinance (hereinafter referred to as the State Ordinance) promulgated by the Governor of that State and the State Ordinance has been replaced —

(i) before such commencement, by an enactment passed by the Legislature of that State, by such enactment; or

(ii) after such commencement, by an enactment which is passed by the Legislature of that State and the application of which is confined to orders of detention made before such commencement under the State Ordinance, by such enactment,

as if this Ordinance had not been promulgated.

(2) Nothing in this section shall be deemed to bar the making, under section 3, of a detention order against any person referred to in sub-section (1) after the detention order in force in respect of him as aforesaid immediately before the commencement of this Ordinance ceases to have effect for any reason whatsoever.

**Explanation. —** For the purposes of this section, "State law" means any law providing for preventive detention on all or any of the grounds on which an order of detention may be made under sub-section (2) of section 3 and in force in any State immediately before the commencement of this Ordinance.

N. SANJIVA REDDY,  
*President.*

R. V. S. PERI SASTRI,  
*Secy. to the Govt. of India.*

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/B/7/1384/80

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 6th October, 1980 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Administrative Tribunal  
(Amendment) Bill, 1980

(Bill No. 21 of 1980)

A  
BILL

further to amend the Goa, Daman and Diu Administrative Tribunal Act, 1965.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-first Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa, Daman and Diu Administrative Tribunal (Amendment) Act, 1980.

(2) It shall come into force at once.

2. *Amendment of section 5.*— In the Goa, Daman and Diu Administrative Tribunal Act, 1965 (Act 6 of 1965) in section 5, after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) When the Tribunal is not sitting either as a whole or in Benches, the Chairman, or any other Member nominated by the Chairman, may sit singly and exercise the powers of the Tribunal in relation to applications for stay of proceedings or execution of appealable orders or any supplemental proceedings and may pass such orders as he deems fit:

Provided that whenever any such order has been passed, it shall be placed before the concerned Bench of the Tribunal at its first sitting after the passing of the said order and that Bench may, after hearing the parties concerned confirm, modify or set aside the order.

*Explanation I.*— Nothing in this sub-section shall prevent the Chairman or the Member, as the case may be, who passed such order from taking part at its hearing before the concerned Bench of the Tribunal on the ground that it had been passed by the Chairman or the Member, as the case be.

*Explanation II.*— For the purposes of this sub-section, the expression “supplemental proceedings” shall mean proceedings involving the appointment of a receiver or adjournment of the hearing of a case or any matter incidental to the main case”.

3. *Amendment of section 7.*— In sub-section (1) of section 7 of the principal Act,—

(i) for the opening paragraph, the following shall be substituted, namely:—

“The Tribunal shall, while exercising its jurisdiction, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:—”;

(ii) for clause (vi), the following clause shall be substituted, namely:—

“(vi) any other matter which may be prescribed.”.

4. *Amendment of section 13.*— In sub-section (2) of section 13 of the principal Act, for clause (b), the following clause shall be substituted, namely:—

“(b) the matters in respect of which powers may be vested in the Tribunal;”.

#### Statement of Objects and Reasons

1. Under the Goa, Daman and Diu Administrative Tribunal Act, 1965 as it stands today, each Bench of the Administrative Tribunal sits once a week.

Even stay and urgent matter are to be placed before the respective Bench. In the meantime, the impugned orders are executed and the parties are put to irreparable loss, great hardships and inconveniences. Similarly section 7 of the Act, 1965 provides, *inter alia*, that, in exercising its jurisdiction, the Tribunal shall have powers of a Civil Court for taking evidence; enforcing attendance of witnesses, compelling the discovery and production of documents, etc. and “such other purposes as may be prescribed”. On re-examination it is found that the scope of this section is restricted to the extent of items specified under (i) to (vi). The scope of item (vi) has to be read *Ejusdem Generis* with words appearing before the said items. In this regard the conferment of powers which civil court enjoys, on the Tribunal while exercising its original appellate or revisional jurisdiction in any application, petition, appeal or other proceedings filed before it, would not seem to be within the purview of section 7(1) (vi) of the Act. The present Bill seeks to remove the difficulty.

2. The Bill also seeks to authorise the Chairman of the Tribunal or a single member of Tribunal, if so desired by the Chairman to hear the stay applications or interlocutory matters. Again the order passed by the Chairman or single Member is subject to confirmation by the concerned Bench of Tribunal. It also provides for conferment on the Tribunal of the powers which a civil court enjoys in exercising its original, appellate or revisional jurisdiction in any application etc. filed before it.

#### Financial Memorandum

No Financial implications are involved in this Bill.

#### Memorandum Regarding Delegated Legislation

No delegated legislation is contemplated in this Bill.

Panaji  
19th September, 1980

D. G. NARVEKAR  
Minister for Law

Assembly Hall,  
Panaji,  
30th September, 1980.

M. M. NAIK  
Secretary to the Legislative  
Assembly of Goa, Daman  
and Diu.

(Annexure to Bill No. 21 of 1980)

#### The Goa, Daman and Diu Administrative Tribunal (Amendment) Bill, 1980

The Goa, Daman and Diu Administrative Tribunal Act, 1965  
(Act No. 6 of 1965)

5. *Sittings and decisions of Tribunal.*— (1) The Tribunal shall ordinarily sit at Panjim; but may sit at any other place convenient for the transaction of the business, which the Chairman, with the approval of the State Government, may, by general or special order, notify in the Official Gazette.

(2) The Tribunal may sit either as a whole or in Benches of two or more Members with or without the Chairman, in such manner as may be prescribed by regulations.



(3) Where Benches are constituted, every such Bench shall exercise and discharge all the powers and functions of the Tribunal and the final orders in the case shall be expressed to be made by the Tribunal.

(4) Where there is any difference of opinion among the Members (including the Chairman) of the Tribunal or of a Bench thereof, on any point, the decision of the Tribunal or the Bench shall be in accordance with the opinion of the majority of such Members.

(5) Where such opinion is equally divided, the matter shall be referred to the Chairman whose decision thereon shall be deemed to be the decision of the Tribunal or, as the case may be, of the Bench:

Provided that where a Bench consists of the Chairman and any other Member or Members and the opinion is equally divided, then, the point shall be referred by the Chairman for hearing by one or more of the other Members of the Tribunal and such point shall be decided according to the opinion of the majority of the Members of the Tribunal who have heard it, including those who first heard it.

7. *Tribunal to have powers of civil court.*—(1) In exercising its jurisdiction, the Tribunal shall have all the powers of a civil court for—

- (i) taking evidence on oath, affirmation or affidavit;
- (ii) summoning and enforcing the attendance of witnesses;
- (iii) compelling the discovery and production of documents and material objects;
- (iv) requisitioning any public record or any copy thereof from any court or office;
- (v) issuing summons for examination of witnesses or production of documents; and
- (vi) such other purposes as may be prescribed.

13. *Power to make rules.*—(1) The State Government may, by notification in Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:—

- (a) the process and other fees to be paid and the deposits to be made by the parties to the proceedings before the Tribunal and the manner of accounting of all moneys received by the Tribunal;
- (b) the powers of a civil court which may be vested in the Tribunal;
- (c) the fee or honoraria to be paid to the Chairman, a Member or the Government Pleader;
- (d) any other matter which has to be, or may be prescribed or provided for by rules.

(3) All rules made under this Act shall be published in the Official Gazette and shall be laid on the table of Legislative Assembly after they are made and shall be subject to such modifications as the Assembly may make during the Session in which they are so laid.

Assembly Hall,

M. M. NAIK

Panaji.

Secretary to the Legislative  
Assembly of Goa, Daman and Diu

30th September, 1980.

LA/B/7/1403/80

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 7th October, 1980 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

## The Goa, Daman and Diu Marine Fishing Regulation Bill, 1980

(Bill No. 22 of 1980)

### A BILL

*to provide for the regulation of fishing by fishing vessels in the sea along the coastline of the Union territory of Goa, Daman and Diu.*

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-first Year of the Republic of India as follows:—

#### CHAPTER I

##### Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Goa, Daman and Diu Marine Fishing Regulation Act, 1980.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires:—

(a) “adjudicating officer” means any officer of the Fisheries Department, not below the rank of a Superintendent of Fisheries authorised by the Government by notification in the Official Gazette to exercise the powers, conferred on, and discharge the duties imposed upon, adjudicating officer by this Act for such area as may be specified in the notification:

(b) “Appellate Board” means an Appellate Board constituted under section 18;

(c) “authorised officer” means such officer as the Government may by notification in the Official Gazette authorise in respect of the matter to which reference is made in the provision of this Act in which the expression occurs;

(d) “Fishing vessel” means a ship or boat, whether or not fitted with mechanical means of propulsion, which is engaged in sea fishing for profit and includes—

- (i) a catamaran,
- (ii) a country craft and
- (iii) a canoe  
engaged in sea fishing;

(e) “Government” means the Government of Goa, Daman and Diu;

(f) “port” means the space within such limits as may from time to time be defined by the Government by notification in the Official Gazette, for the purpose of this Act;

(g) “registered fishing vessel” means

- (i) a fishing vessel registered under section 11 of the Marine Products Export Development Authority Act, 1972 or; Central Act 13 of 1972.
- (ii) a fishing vessel registered under section 9;



(h) "specified area" means such area in the sea along the entire coastline of the Union territory, but not beyond the territorial waters, as may be specified by the Government by notification in the Official Gazette;

(i) "Union territory" means the Union territory of Goa, Daman and Diu and includes the territorial waters along the entire coastline of the Union territory.

3. *Authorisation of officers for the purpose of any provisions of this Act.* — The Government may by notification in the Official Gazette, authorise —

(a) any officer of the Government not being an officer below the rank of a Gazetted Officer; or

(b) any Officer of the Central Government, not being any officer below the rank of a Gazetted Officer or a Commissioned Officer in the armed forces of the Union, with the consent of that Government, to exercise the powers conferred on and discharge the duties imposed upon any such authorised officer under this Act in such area as may be specified in the notification.

## CHAPTER II

### Regulation of Fishing

4. *Power to regulate restrict or prohibit certain matters within specified area.* — (1) The Government may, having regard to the matters referred to in sub-section (2) by an order notified in the Official Gazette, regulate, restrict or prohibit —

(a) the fishing in any specified area by such class or classes of fishing vessels as may be prescribed; or

(b) the number of fishing vessels which may be used for fishing in any specified area; or

(c) the catching in any specified area of such species of fish and for such period as may be specified in the notification; or

(d) the use of such fishing gear in any specified area as may be prescribed.

(2) In making an order under sub-section (1) the Government shall have regard to the following matters, namely: —

(a) the need to protect the interest of different sections of persons engaged in fishing, particularly those engaged in fishing using traditional fishing crafts such as catamaran, country craft or a canoe;

(b) the need to conserve fish and to regulate fishing on a scientific basis;

(c) the need to maintain law and order in the sea;

(d) any other matter that may be prescribed.

5. *Prohibition of use of fishing vessels in contravention to the Regulations made under section 4.* — No owner or master of a fishing vessel shall use, or cause or allow to be used, such fishing vessels for fishing in any manner which contravenes an order made under section 4:

Provided that nothing in such order shall be construed as preventing the passage of any fishing vessel from, or to, the shore, through any specified

area for the purpose of fishing in such other area or for any other purpose:

Provided further that the passing of such fishing vessel through any specified area shall not in any manner cause any damage to any fishing nets or tackles belonging to any person who is engaged in fishing in the specified water area by using any traditional fishing craft such as catamaran, country craft, or canoe.

6. *Licensing of fishing vessels.* — (1) The owner of a fishing vessel may make an application to the authorised officer for the grant of a licence for using such fishing vessel for fishing in any specified area.

(2) Every application under sub-section (1) shall be in such form, containing such particulars, and be accompanied by such fees, as may be prescribed.

(3) The authorised officer after making such enquiry as he deems fit and having regard to the matters referred to in sub-section (4), either grant or refuse to grant, to the owner of fishing vessel, a licence for using such fishing vessel for fishing in the specified area or specified areas mentioned in such licence.

(4) In granting or refusing such licence under sub-section (3) the authorised officer shall have regard to the following namely: —

(a) Whether the fishing vessel is a registered fishing vessel;

(b) The condition of the fishing vessel including the accessories and fishing gear with which it is fitted;

(c) any order that may be made under section 4;

(d) any other matter that may be prescribed.

(5) A licence granted under this section shall be in such form and subject to such conditions, including conditions as to payment of such fees and furnishing such security for due performance of the conditions, as may be prescribed:

Provided that different fees and different amounts by way of security may be prescribed in respect of licences for different classes of fishing vessels.

(6) A licence granted under this section shall be valid for the period specified therein or for such extended periods as the authorised officer may think fit to allow in any case.

7. *Prohibition of fishing using fishing vessels which are not licenced.* — No person shall, after the commencement of this Act, carry on fishing in any specified area using a fishing vessel which is not licenced under section 6:

Provided that nothing in this section shall apply to any fishing vessel, which was being used immediately before the commencement of this Act, for such period as may be specified by the Government by notification in the Official Gazette.

8. *Cancellation, suspension and amendment of licences.* — (1) If the authorised officer is satisfied

either on a reference made to him in this behalf or otherwise, that —

(a) a licence granted under section 6 has been obtained by misrepresentation as to an essential fact; or

(b) the holder of the licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or any order or rule made thereunder, then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the authorised officer may, after giving the holder of the licence a reasonable opportunity of showing cause, can cancel or suspend the licence or forfeit the whole or any part of the security, if any, furnished for the due performance of the conditions subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf, the authorised officer may also vary or amend a licence granted under section 6.

9. *Registration of vessels.* — (1) The owner of every vessel used or intended to be used for the purposes of fishing and kept on the Union territory shall register such vessel under this Act irrespective of whether or not it is registered under section 11 of the Marine Products Export Development Authority Central Act, 1972. 13 of 1972.

(2) Every application for registration of such vessel shall be made by the owner thereof in such form, and shall be accompanied by such fees, as may be prescribed within the time limit as indicated below, —

(a) before the expiration of one month from the date on which he first becomes the owner of such vessel; or

(b) before the expiration of three months from the commencement of this Act; whichever is later:

Provided that the authorised officer may, for sufficient reasons to be recorded in writing, extend the time limit for registration by such periods as he thinks fit. However, such period shall not extend three months.

(3) The authorised officer shall issue to the owner of the vessel registered by him, a certificate of registration in the prescribed form and shall enter in the Register to be kept by him, in such form as may be prescribed, the particulars of such certificate.

(4) Registration once made shall continue to be in force until it is cancelled by the authorised officer.

(5) Every vessel registered under this section shall carry a registration mark assigned to it by the authorised officer, displayed in the prescribed manner on the vessel.

(6) No vessel, other than a registered fishing vessel, shall be entitled to a licence under section 6.

10. *Information to be given to the authorised officer about movement of fishing vessels.* — Where

a registered fishing vessel moves from the area of one Port to the area of another Port, the owner of such fishing vessel shall give information to that effect, in the prescribed manner, to the authorised officer, by whom such fishing vessel was registered and also to Port Officer having jurisdiction over the area whereto such fishing vessel has been moved.

11. *Returns to be made by owners of fishing vessels.* — (1) Every owner of a registered fishing vessel shall furnish to the authorised officer at the prescribed time and in the prescribed manner such returns as may be prescribed.

(2) The authorised officer may inspect any registered fishing vessel at any time to verify the accuracy of any returns made under this section.

12. *Finality of orders under sections 6, 8 and 9.* — Every decision of the authorised officer under section 6, section 8 or section 9, granting or refusing to grant licence for a fishing vessel or cancelling, suspending, varying or amending such licence or registering or cancelling the registration of a vessel shall, subject to any right of appeal under section 13, be final.

13. *Appeals against orders refusing grant of licence etc.* — (1) Any person aggrieved by an order of an authorised officer refusing to grant licence for a fishing vessel or cancelling, suspending or varying or amending such licence or refusing to register a vessel or cancelling the registration of such vessel may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority as may be prescribed (hereinafter in this section referred to as the Appellate Authority):

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Appellate Authority shall, after giving the appellant a reasonable opportunity of being heard, pass such orders thereon as it deems fit as expeditiously as possible.

(3) Every order passed by the Appellate Authority under this section shall be final.

### CHAPTER III

#### Penalties

14. *Power to enter and search fishing vessels.* — The authorised officer may, if he has reason to believe that any fishing vessel is being or has been used in contravention of any of the provisions of this Act, or of any order or rule made thereunder or any of the conditions of the licence, enter and search such vessels and impound the same and seize any fish found in it.

15. *Disposal of seized fish, etc.* — (1) The authorised officer shall keep the fishing vessel impounded under section 14, in such place and in such manner as may be prescribed.

(2) In the absence of suitable facilities for the storage of fish seized, the authorised officer may

if he is of opinion that the disposal of such fish is necessary, dispose of such fish and deposit the proceedings thereof in the prescribed manner in the office of the adjudicating officer.

16. *Adjudication.* — (1) Where any authorised officer, referred to in section 14, has reason to believe that any fishing vessel is being or has been used in contravention of any of the provisions of this Act or any order or rule made thereunder, or any of the conditions of the licence, he shall make a report thereof to the adjudicating officer.

(2) The adjudicating officer shall hold an enquiry, into the matters mentioned in the report in the prescribed manner, after giving all the parties concerned a reasonable opportunity of being heard.

17. *Penalty.* — (1) The adjudicating officer shall, after the enquiry under section 16, decide whether any person has used or caused or allowed to be used any fishing vessel in contravention of any of the provisions of this Act or of any order or rule made thereunder or any of the conditions of licence and any such person on being found guilty by the adjudicating officer, shall be liable to such penalty not exceeding: —

(a) five thousand rupees, if the value of the fish involved is one thousand rupees or less; or

(b) five times the value of the fish, if the value of the fish involved is more than one thousand rupees; or

(c) five thousand rupees, in any other case, being a case not involving in any fish, as may be adjudged by the adjudicating officer.

(2) In addition to any penalty that may be imposed under sub-section (1), the adjudicating officer may direct that —

(a) the registration certificate of the fishing vessels which has been used or caused or allowed to be used, in the manner referred to in sub-section (1) or the licence, any condition of which has been contravened, shall be —

(i) cancelled or revoked, as the case may be; or

(ii) suspend for such period as the adjudicating officer deems fit; or

(b) the fishing vessel or fish that might have been impounded or seized as the case may be, under section 14 shall be forfeited to the Government:

Provided that no fishing vessel shall be forfeited under clause (b), if the adjudicating officer after hearing the owner of such vessel or any person claiming any right thereto is satisfied that the owner or such person had exercised due care for prevention of the commission of such offence.

18. *Constitution of Appellate Board and appeal to Appellate Board.* — (1) The Government may, by notification in the Official Gazette, constitute one or more Appellate Board or Boards.

(2) The Appellate Board shall consist of three members of whom one shall be a person who is or has been a District Judge, who shall be appointed as the Chairman of the Appellate Board.

(3) Where only one Appellate Board is appointed that Appellate Board shall have jurisdiction throughout the Union territory and where more than one Appellate Board is appointed by the Government, Government may by notification in the Official Gazette, define the jurisdiction of each Appellate Board.

(4) Any person aggrieved by an order of the adjudicating officer may, within thirty days from the date on which the order is made, prefer an appeal to the Appellate Board having jurisdiction to hear such appeal:

Provided that the Appellate Board may entertain any appeal after the expiry of said period of thirty days, but not after the expiry of sixty days from the date aforesaid if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(5) No appeal under this section shall be entertained by the Appellate Board unless the appellant has, at the time of filing the appeal deposited the amount of penalty payable under the order appealed against:

Provided that, on an application made by the appellant in this behalf, the Appellate Board may, if it is of the opinion that the deposit to be made under this sub-section will cause undue hardships to the appellant, by order in writing dispense with such deposit either conditionally or subject to conditions as it may deem fit to impose.

(6) On receipt of an appeal under sub-section (4), the Appellate Board may, after holding such enquiry as it deems fit, and after giving the parties concerned a reasonable opportunity of being heard, confirm, modify or set aside the order appealed against and the decision of the Appellate Board shall be final; and —

(a) if the sum deposited by way of penalty under sub-section (5) exceeds the penalty directed to be paid by the Appellate Board the excess amount (shall be refunded to the appellant) or

(b) if the Appellate Board sets aside the order imposing penalty, the whole of the sum deposited by way of penalty, shall be refunded to the appellant.

19. *Revision by Appellate Board.* — The Appellate Board may call for and examine the records of any order passed by an adjudicating officer under section 17 and against which no appeal has been preferred under section 18 for the purpose of satisfying itself as to the legality or propriety of such order or as to the regularity of the procedure and pass such order with respect thereto as it may think fit:

Provided that no such order shall be made except after giving the person affected a reasonable opportunity of being heard in the matter.

20. *Powers of the adjudicating officer and the Appellate Board in relation to holding an enquiry under this Act.* — (1) The adjudicating officer and the Appellate Board shall, while holding an enquiry, have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908)

while trying a suit, in respect of the following matters, namely: —

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the discovery and production of any documents;
- (c) requisitioning any public record or copy thereof from any Court or office;
- (d) receiving evidence or affidavits; and
- (e) issuing commissions for the examination of witnesses or documents.

(2) The adjudicating officer or the Appellate Board shall, while exercising any power under this Act, be deemed to be a Criminal Court for the purpose of sections 345 and 346 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

**21. Offences by Companies.** — (1) Where an offence under this Act has been committed by a company, every person, who at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.** — for the purposes of this section: —

- (a) "company" means any Body Corporate and includes a firm or association of individuals; and
- (b) "director" in relation to a firm means a partner in the firm.

#### CHAPTER IV

##### Miscellaneous

**22. Exemptions.** — (1) Nothing contained in this Act shall apply to survey vessels belonging to the Central Government or any State Government or any public undertaking.

(2) If the Government is of the opinion that, having regard to the purpose of this Act, it would not be in the public interest to apply all or any of the provisions of this Act to any class or classes of fishing vessels used for fishing in specified area or areas, it may by notification in the Official Gazette, exempt, subject to such conditions as it may think fit to impose, such classes or classes of fishing

vessels used for fishing in such specified area or areas as it may specify in the notification, from the operation of all or any of the provisions of this Act.

**23. Protection of action taken in good faith.** — (1) No suit, prosecution or other legal proceeding shall lie against the Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any order or rule made thereunder.

(2) No suit or legal proceeding shall lie against the Government or any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order or rule made thereunder.

**24. Power to make rules.** — (1) Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may be provided for all or any of the following matters, namely: —

(a) the matters to which regard shall be had in making an order under sub-section (1) of section 4;

(b) the form of application for licence under sub-section (1) of section 6, the particulars which it shall contain and the fees which shall accompany it.

(c) the matters to which regard be had in granting or refusing a licence, under clause (d) of sub-section (4) of section 6, the fees payable for the licence and the security for the due performance of the conditions of licence;

(d) the procedure to be followed in granting or refusing a licence under section 6 or cancelling, suspending, varying or amending such licence or in registering a vessel under section 9 or cancelling such registration;

(e) the form of application for registration of a vessel under section 9, the particulars which such application shall contain and the fees which shall accompany the application, the form of the certificate of registration and the form of the register referred to in sub-section (3) of that section, the manner in which the registration mark referred to in sub-section (4) of that section shall be displayed;

(f) the manner in which the information referred to in section 10 shall be given;

(g) the item and manner in which their returns referred to in sub-section (1) of section 11 shall be furnished;

(h) the authority to whom appeals shall be preferred under sub-section (1) of section 13;

(i) the place and the manner in which an impounded fishing vessel shall be kept under sub-section (1) of section 15 and the manner in which the proceeds of the disposal of the seized fish shall be deposited with the adjudicating officer under sub-section (2) of that section;

(j) the procedure of the enquiry by the adjudicating officer under sub-section (2) of section 16;

(k) the qualifications of the members of the Appellate Board other than the Chairman, the fees and allowances payable to the Chairman and other members of the Appellate Board, the procedure of the Appellate Board;

(l) the fees payable for supply of copies of documents or orders or for any other purpose or matter involving the rendering of any service by any officer or authority under this Act;

(m) any other matter which is to be or may be provided for by rules under this Act.

#### Statement of Objects and Reasons

In view of the rapid expansion of marine fishing activities through the introduction of an increasing number of mechanised fishing boats and deep sea fishing trawlers, Government's attention has been drawn to the possibility of conflict of interest between the operators of mechanised boats and trawlers, and traditional fishermen using non-mechanised boats. In order to avert such conflicts, it is necessary to safeguard and protect the interest of small fishermen. This Bill seeks to achieve this purpose.

Clause 4 of the Bill empowers the Government to regulate, restrict or prohibit certain matters within specified areas.

#### Financial Memorandum

Clause 6 of the Bill provides levy of the licence fees of the fishing vessels and Clause 9 empowers the Government to levy registration fees. Besides, the Government is empowered to impose minimum penalty of Rs. 5,000.

Clause 18 provides constitution of Appellate Board and the Government may incur an expenditure on this account every year. The exact amount cannot be estimated at this stage.

#### Memorandum Regarding Delegated Legislation

Clause 24 of the Bill empowers the Government to frame rules to carry out the purposes of the Act. The delegation is of normal character.

Panaji,  
30th September, 1980.

Assembly Hall,

Panaji,  
1st October, 1980.

**D. G. NARVENKAR**  
Minister for Fisheries

**M. M. NAIK**  
Secretary to the Legislative  
Assembly of Goa, Daman and Diu

LA/B/7/1385/80

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 6th October, 1980 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

### The Goa, Daman and Diu (Authority for Use of Eyes for Therapeutic Purposes) Bill, 1980

(Bill No. 23 of 1980)

#### A BILL

*to provide for the use of eyes of deceased persons for therapeutic purposes and for matters connected therewith.*

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-first Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Goa, Daman and Diu (Authority for the use of Eyes for Therapeutic Purposes) Act, 1980.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires:—

(a) "Administrator" means the Administrator of the Union territory of Goa, Daman and Diu appointed by the President under article 239 of the Constitution;

(b) "approved institution" means a hospital or teaching institution approved by the Administrator for the purposes of this Act;

(c) "near relative", in relation to a deceased person, means his wife, husband, parent, son, daughter, brother and sister and includes any other person who is related to the deceased person.—

(i) by lineal consanguinity within three degrees or by collateral consanguinity within six degrees; or

(ii) by marriage with any of the relatives aforesaid.

*Explanation:*—The expression "lineal consanguinity" and "collateral consanguinity" shall have the meanings respectively assigned to them in the Indian Succession Act, Central Act 1925, and degrees of relationship shall be computed in the manner laid down in that Act or any other law for the time being in force;

(d) "prescribed" means prescribed by rules made under this Act.

3. *Authority for the removal of eyes of deceased persons.*—(1) If any person had, either in writing or orally, in the presence of two or more witnesses (at least one of whom is a near relative of such person) unequivocally authorised, at any time before his death, the use of his eyes, after his death, for therapeutic purposes (such person being hereinafter referred to in this section as the "donor"), the person lawfully in possession of the dead body of the donor

shall, unless he has any reason to believe that the donor had subsequently revoked the authorisation aforesaid, grant, to the medical practitioner referred to in sub-section (3), all reasonable facilities for the removal, for therapeutic purposes, of the eyes from the dead body of the donor.

(2) Where no such authorisation as is referred to in sub-section (1) was made by any person before his death but no objection was also raised by such person to his eyes being used after his death for therapeutic purposes, the person lawfully in possession of the body of the deceased person may, unless he has reason to believe that any near relative of the deceased person has objections to the deceased person's eyes being used for therapeutic purposes, authorise the removal of the eyes of the deceased person for their use for therapeutic purposes.

(3) The authority given under sub-section (1) or, as the case may be, under sub-section (2) shall be sufficient warrant for the removal, for therapeutic purposes, of the eyes from the body of the deceased person; but no such removal shall be made by any person other than a registered medical practitioner possessing a post-graduate qualification in Ophthalmology or a certificate showing that he had received training in enucleation procedure in the Ophthalmic Department of an approved institution, who had satisfied himself, before such removal, by a personal examination of the body from which eyes are to be removed, that life is extinct in such body.

*Explanation:* — For the purpose of this section, "registered medical practitioner" means a medical practitioner who possesses any recognised medical qualification referred to in clause (h) of section 2 of the Indian Medical Council Act, 1956, and whose name has been entered in a State Medical Register. Central Act 2 of 1956.

**4. Removal of eyes not to be authorised in certain cases.** — (1) No facilities shall be granted, or authority shall be given for the removal of eyes under section 3, if the person required to grant such facilities, or empowered to give such authority, has reason to believe that an inquest may be required to be held in relation to the body of the deceased person in pursuance of the provisions of any law for the time being in force.

(2) No authority for the removal of eyes from the body of a deceased person shall be given by a person to whom such body has been entrusted solely for the purpose of interment, cremation or other disposal.

**5. Authority for removal of eyes in the case of unclaimed bodies in certain institutions.** — (1) In the case of a dead body lying in a hospital, prison, nursing home or other like institution and not claimed by any of the near relatives of the deceased person, authority for the removal of the eyes from the dead body which so remains unclaimed may be given, subject to the provisions of sub-section (2), in the prescribed form, by the person in-charge, for the time being, of the management or control of the hospital, prison, nursing home or other like institutions or by an employee of such hospital, prison, nursing home or other like institution, authorised or designated in this behalf by the person in the charge of management or control thereof.

(2) The authority referred to in sub-section (1) shall not be given except after the expiry of —

(i) half an hour from the time of the death of the concerned person, in cases where no facility for cold storage of the dead body is available in the hospital, prison, nursing home or other like institutions; or

(ii) two hours from the time of death of the concerned person, in cases where facility for cold storage of the dead body is available in the hospital, prison, nursing home or other like institution.

(3) No authority shall be given under sub-section (1) if the person empowered to give such authority has reason to believe that any near relative of the deceased is likely to claim the dead body even though such near relative has not come forward to claim the body of the deceased within the time specified in this behalf.

**6. Authority for removal of eyes from bodies sent for the post mortem examination for medico-legal purposes.** — Where the death of a person is caused by accident or any other unnatural cause, and his dead body has been sent for post mortem examination for medico-legal purposes, the person competent under this Act to give authority for the removal of eyes from such dead body may, if he has reason to believe that the eyes will not be required for any medico-legal purpose, authorise the removal for therapeutic purposes, of the eyes of such deceased person; provided that he is satisfied that the deceased person had not expressed, before his death, any objection to his eyes being used for therapeutic purposes after his death or, where he had granted an authority for the use of his eyes for therapeutic purposes after his death, such authority had not been revoked by him before his death.

**7. Preservation of eyes removed from dead bodies.** — After the removal of the eyes from the body of the deceased person, the medical practitioner shall take such steps for the preservation of the eyes so removed as may be prescribed.

**Savings.** — (1) Nothing in the foregoing provisions of this Act shall be construed as rendering unlawful any dealing with the body or with any part of the body of a deceased person if such dealing would have been lawful if this Act had not been passed.

(2) Neither the grant of facility or authority for the removal of eyes from the body of a deceased person in accordance with the provisions of this Act nor the removal of eyes from the body of a deceased person in pursuance of such authority shall be deemed to be an offence punishable under section 297 of the Indian Penal Code. Central Act 45 of 1860.

**9. Protection of action taken in good faith.** — No suit, prosecution or other legal proceedings shall lie against any approved institution or any person for anything which is in good faith done or intended to be done under this Act.



10. *Power to make rules.* — (1) The Administrator may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without any prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matter, namely: —

(a) form in which removal of eyes of unclaimed bodies may be authorised, as required by section 5;

(b) preservation of removed eyes, as required by section 7;

(c) any other matter which is required to be, or may be, prescribed.

#### Statement of Objects and Reasons

The Bill seeks to legalise the removal of eyes from the dead bodies for therapeutic purposes. The eyes may be deposited in an Eye Bank and will be used for the benefit of blind persons suffering from corneal diseases by the method of corneal grafting. According to the provisions of Clause 3 of the Bill, if any person either in writing or in the presence of witnesses during his last illness expresses his desire or requests to the effect that his eyes may be used for therapeutic purposes after his death, the person who is in lawful possession of the body after the death, may authorise the removal of the eyes. Further, sub-clause (2) of Clause 3 proposes to empower the person in lawful possession of the body to authorise the removal of eyes, if no objection was raised by the deceased himself, by any of his near relatives, to such removal. According to Clause 4(1), such authority will not be given if there is no reason to believe that an inquest is required on the body. Clause 4(2) provides that such authority should not be given if the person in whose possession the body has been entrusted only for the purpose of cremation, etc.

#### Financial Memorandum

Goa Medical College is a full-fledged Medical College having a fully equipped Ophthalmology Department manned by Specialist Professors and having necessary equipment for corneal grafting.

Non-recurring expenditure to the extent of Rs. 1.23 lakhs for the purpose of storing equipment and other special equipments required for the technique of corneal grafting and recurring expenditure of Rs. 26,000/- per annum for meeting expenditure on staff such as Senior Registrar, Technician, Nurse, Servant, etc. and other expenses on drugs, materials, etc. will have to be incurred.

#### Memoranda on Delegated Legislation

Clause 10 of the Bill enables the Administrator to frame Rules under the Act. This delegation is of normal character.

Panaji, SHAIK HASSAN HAROON  
30th September, 1980. Minister for Health

Assembly Hall, M. M. NAIK  
Panaji, Secretary to the Legislative  
1st October, 1980. Assembly of Goa, Daman and Diu

LA/B/7/1404/80

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 7th October, 1980 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

#### The Land Acquisition (Goa, Daman and Diu Amendment) Bill, 1980

(Bill No. 24 of 1980)

#### A BILL

*to amend the provisions of the Land Acquisition Act, 1894 in its applicability to the Union territory of Goa, Daman and Diu.*

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-first year of the Republic of India as follows: —

1. *Short title and Commencement.* — (1) This Act may be called the Land Acquisition (Goa, Daman and Diu Amendment) Act, 1980.

(2) It shall come into force at once.

2. *Amendment of section 17.* — In section 17 of the Land Acquisition Act, 1894 (Central Act 1 of 1894), —

(a) in sub-section (1), omit the words “waste or arable”;

(b) in sub-section (4), for the words “In the case of any land to which” substitute the words “In case where”.

#### Statement of Objects and Reasons

A necessity has been felt to introduce the amendment so that the scope of the urgency clause is extended, as it has been done in other states.

At present the urgency clause can be used only in respect of waste and arable land. Now, with the proposed amendment, the urgency clause could be made applicable in case of any land when the same is required for any urgent public purpose.

#### Financial Memorandum

No financial commitment is involved in this Bill.

Panaji, SHAIK HASSAN HAROON  
1st October, 1980 Minister for Revenue

Assembly Hall, M. M. NAIK  
Panaji, Secretary to the Legislative  
3rd October, 1980. Assembly of Goa, Daman and Diu



(Annexure to Bill No. 24 of 1980)

**The Land Acquisition (Goa, Daman and Diu  
Amendment) Bill, 1980**

The Land Acquisition Act, 1894

[Act No. 1 of 1894]

17. *Special powers in cases of urgency.*—(1) In cases of urgency, whenever the appropriate Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the appropriate Government, enter upon and take pos-

session of such land, which shall thereupon vest absolutely in the Government, free from all encumbrances:

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24 and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

(4) In the case of any land to which, in the opinion of the appropriate Government, the provisions of sub-section (1) or sub-section (2) are applicable, the appropriate Government may direct that the provisions of section 5A shall not apply, and, if it does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub-section (1).

Panaji,  
Assembly Hall,  
3rd October, 1980.

M. M. NAIK  
Secretary to the Legislative  
Assembly of Goa, Daman and Diu.